

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

THIS DOCUMENT RELATES TO
01-CV-12257-PBS AND 01-CV-339

Judge Patti B. Saris

Chief Magistrate Judge Marianne B. Bowler

**PLAINTIFFS' REPLY TO THE GSK GROUP'S INDIVIDUAL MEMORANDUM IN
OPPOSITION TO CLASS CERTIFICATION**

Defendants' moved the Court for additional pages to oppose class certification on the grounds each defendant wanted to "address critical issues unique to each defendant" so that these "critical differences between and among defendants and defendants' products are properly presented to the Court." *See* Track 1 Defendants' Motion For Leave to File Supplemental Individual Memorandum, dated September 16, 2004. GSK's opposition has nothing to do with facts unique to GSK, or regarding GSK's "products." Rather it's a ten-page exposition on state law issues applicable to all defendants that should have been within the defendants' main opposition and the 50 pages allotted to such opposition. By this trick, defendants obtained ten extra pages to address common issues.

Accordingly, plaintiffs have taken the ten pages misappropriated by GSK and placed the opposition to those pages response in plaintiffs' main reply brief since the issues raised by GSK are common issues. Plaintiffs reply brief is thus 35 pages, as opposed to 25.

DATED: December 17, 2004

By /s/ Steve W. Berman

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